

**Report of the
Committee on Coastal Insurance
to the
Legislative Research Commission
of the
North Carolina General Assembly**



Members of the
Committee on Coastal Insurance

Senator Albert J. Ellis, Chairman

Senator John J. Burney

Senator Wills Hancock

Representative Emmett W. Burden

Representative Nelson W. Taylor



North Carolina
Legislative Research Commission
STATE LEGISLATIVE BUILDING
Raleigh

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Speaker Earl W. Vaughn, Co-Chairmen
Legislative Research Commission
State Legislative Building
Raleigh, North Carolina 27602

Gentlemen:

The 1967 General Assembly adopted a joint resolution requesting the Legislative Research Commission to conduct an extensive study of the problem of providing adequate fire and extended coverage insurance to owners of property in the coastal area of the State of North Carolina. The Commission appointed the following persons to constitute a committee on coastal insurance and to report to the full Commission concerning an approach to the coastal insurance issues: Senator John J. Burney, Representative Wills Hancock, Representative Emmett W. Burden, Representative Nelson W. Taylor, and Senator Albert J. Ellis, Chairman.

The committee submits herein the unanimous report of the Commission's insurance committee to the Legislative Research Commission.

Respectfully,

A handwritten signature in cursive script, reading "Albert J. Ellis".

Albert J. Ellis, Chairman

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REPORT OF LEGISLATIVE RESEARCH COMMISSION

INSURANCE ON BEACH PROPERTIES

For a number of years fire and extended coverage insurance on properties situated on the "Outer Banks" has been a problem for property owners, insurance agents and insurance companies. The problem was greatly increased in severity following the severe and widespread damage done by Hurricane Hazel in 1954, the three hurricanes "Connie", "Diane" and "Ione" the next year and by succeeding storms, varying in intensity, in the years following, all resulting in serious losses to the insuring companies and in many instances to uninsured or partially insured property owners. The continued losses and the unprofitable record for the past fifteen years has caused numerous companies to entirely withdraw from the area or materially reduce their writings on beach properties.

These actions, coupled with the inflation in values and the rapid expansion of construction in that area in the past decade brought the matter to the attention of the Legislature in 1967. An open hearing of all concerned legislators, property owners, insurance agents and insurors was held early that year following which a committee representing all types of insurance companies visited the coast and drew up a report which the Insurance Commissioner mailed to all companies writing fire and extended coverage in the state, together with a strong letter pointing out to them their fair share of this coverage and asking their cooperation in taking care of this property. The

problem and Senator John Burney of New Hanover drew a bill to set up a plan to do the job. After hearings on this bill, certain objections were raised by representatives of the insurance companies and Senator Burney replaced his initial bill with a second one. A subcommittee to study this bill was appointed by Chairman Dallas Alford of the Senate Insurance Committee; following which action hearings were held and some changes made at the suggestion of the insurance company representatives.

At the same time representatives of each of the three national industry trade organizations met with members of the local company committee and a plan was evolved, known as the "North Carolina Fire and Extended Coverage Plan for Properties in Beach Area of Zone 1." (Zone 1 is constituted largely of those counties bordering on the Atlantic Ocean and Sounds.) This was done to comply with the provisions of Senator Burney's bill, which after hearings was passed by both houses of the Legislature. His bill provided, among other requirements that the insurance companies file a plan to take care of beach properties and particularly to make periodic reports on cancellations and acceptances. The plan drawn by the industry representatives (see Appendix A attached) was a voluntary one and set up procedures for inspections, reports to the interested companies and reports to the property owner as to deficiencies rendering the property uninsurable so that corrections could be made and insurance obtained. Action reports were required in each instance to be filed with the Insurance Commissioner so that he could know what was being done. To date declinations under the plan, which was approved in September 1967 by the Insurance

Commissioner, have run about 10% of the requests which, at first glance, would seem to indicate that the plan was operating in a satisfactory manner. The statistics, however, are misleading in that an assured who applies for a certain amount of insurance may be successful only in obtaining a lesser amount of coverage; which action does not comprise a declination. In numerous instances coverage has been effected after an inspection only to be cancelled later. As all requests for coverage, with a resulting inspection, must come through an agent it has been difficult in some instances to have requests for inspections made. In addition many agents in the coastal area are aware of the fact that numerous companies will not appoint agents in Zone 1 and they are apprehensive that if their companies, which are already heavily involved with beach property, suffer severe losses from a future storm, they will withdraw from the area leaving the agents greatly reduced in facilities and possibly with no company at all. This has happened already in some instances. Property owners, declined by one agent, often do not know where to turn for help. Furthermore, as an agent may submit an application, under the plan, only to companies he represents, if he knows that these companies are not writing insurance in the beach areas, he would not submit an application, as it would be futile. This makes the statistical information on declined applications of very little significance.

As of September 27, 1968, a letter was sent by the chairman of your committee to all companies entered in the state to ascertain which were doing their fair share and to learn if those who had no agents in Zone 1 would accept brokerage on beach

risks. A summary of these revealed that fifty percent (50%) of the stock companies were writing their fair share and thirty percent (30%) some coverage. Twenty-five percent (25%) of the mutual companies were doing their fair share and thirty percent (30%) were writing some coverage in the area. Practically no company was agreeable to brokerage and even when agreeable, only on a restricted basis.

This points up the fact that despite the efforts of some companies - both stock and mutual - there are many who have made little or no effort to alleviate the conditions existing, even though it has been made very clear to them, when the voluntary plan was approved, that unless relief was rendered some more drastic plan might be forthcoming.

As a result of the fairly recent shrinkage of the market on properties located in so-called "ghetto" areas as a result of the severe riots and civic disturbances of the past few years a plan has been created by legislation in the United States Congress, through the Department of Housing and Urban Development, under which a reinsurance pool may be set up to take care of losses as a result of riots. As of October 29, 1968, Commissioner Edwin S. Lanier approved the plan filed in this state, known as "The North Carolina Basic Property Insurance Inspection and Placement Plan" (see Appendix B for a copy). The Plan, known as the "Fair Plan", is a voluntary one and has been subscribed to by 212 of the 217 companies writing fire and extended coverage business in the state. These 212 companies are writing slightly over 80% of the entire volume of such business in North Carolina. Designed to take care of so-called "ghetto"

properties located in such areas in North Carolina cities and towns it spreads the liability on such properties equitably on all company members in proportion to their premium writings. The Insurance Commissioner, under paragraph (6) of Section III (page 3) has the right to include the beach area in territories eligible, thus providing a capacity outlet for those companies writing beach lines and also spreading the liability fairly over all companies in the plan whether or not they have agents in Zone 1. The beach area is described in the North Carolina Fire Insurance Rating Bureau's rules as "all localities South and East of the Inland Waterway, from the South Carolina line to Fort Macon (Beaufort Inlet), thence South and East of Core, Pamlico, Roanoke and Currituck Sounds to the Virginia line, being those portions known as the Outer Banks."

The "Fair Plan" in its present form, however, has several weaknesses as far as beach property is concerned; namely, (1) it is a voluntary plan, (2) while subscribed to by companies writing 80% of the fire and extended coverage premiums in the state the full capacity of all companies is needed, (3) as stated above, it does not include the beach area, (4) the plan has an expiration date of December 31, 1969, or sooner if it should no longer qualify for reinsurance under the Urban Property and Reinsurance Act of the United States Congress.

What also may be a drawback is the provision under the National Act that should excessive riot losses occur the state may be liable each year for a portion of the losses in excess of the companies participation up to an amount equal to 5% of the total writings in the state on the classes eligible. Since these

writings total approximately \$100,000,000 it is estimated that should extremely adverse conditions develop this could reach a limit of \$5,000,000 annually.

As opposed to the weaknesses cited above the present "Fair Plan" has some excellent features in it which make it superior to the present Voluntary Beach Plan (Appendix A); namely, (1) it resolves the capacity problem up to a limit on an individual risk of one and a half million dollars, (2) it insures that all companies, whether or not they have agents in Zone 1, will carry their relative share of each risk, (3) an application can be made directly to the Association for an inspection rather than through an agent or company, (4) manner and scope of inspection must be approved by Insurance Commissioner, (5) a risk cannot be declined "for neighborhood or area location or any environmental hazard beyond the control of the property owner", (6) assured must be informed of reasons for any declination and given opportunity of making corrections to render property insurable, (7) thru the National reinsurance arrangement administrative problems would be much simpler than under a separate beach plan.

Cancellations are covered by Section IX and note should be made that any cancellation notice to the insured must be accompanied by a statement that the insured has a right of appeal as covered by Section X.

Among the alternatives available are: (1) the Insurance Commissioner has the authority to amend the "Fair Plan" to include the Beach areas, (2) legislation may be effected to make the plan mandatory for all companies writing fire and extended

coverage in North Carolina, (3) if these two steps are taken the expiration of the plan should be extended to at least a five year term or at the will of the Commissioner (it must be remembered that the present plan expires at the end of 1969 or sooner if the National plan should expire), (4) by effecting an entirely separate "pooling" plan which would be mandatory.

There is no doubt in the minds of this committee that there are definite and severe restrictions on the development of the economy of our coastal counties by the restricted fire and extended coverage market in those areas. This problem, rather than having improved since the approval of the so-called voluntary beach plan in September 1967, which was presented by the insurance industry to comply with the requirements of the bill presented by Senator Burney at the legislative session earlier that year, has further deteriorated. Property owners are having increased difficulties in obtaining sufficient insurance or are faced with the cancellation of policies previously accepted. In addition some companies are declining to renew policies at expiration. Numerous companies have no agents in Zone 1 and also decline to accept brokerage on beach properties.

The Committee, accordingly, recommends that legislation be presented and passed at the coming legislative session instituting a mandatory plan to provide fire and extended coverage insurance on insurable properties located in beach areas. This plan, through a reinsurance pool set-up, should afford not only a capacity to enable all assureds to obtain insurance in line with the value of their property but it would

also force all companies to carry their fair share of such coverage. For suggested legislation see Appendix C.

Appendix A

NORTH CAROLINA FIRE & E. C. PLAN

FOR PROPERTIES

IN BEACH AREA OF

ZONE I

PURPOSE

This Plan is designed to make basic fire and extended coverage insurance available for insurable buildings which are located in Beach Area, Zone I, in the State of North Carolina where such insurance has been difficult to obtain. Beach Area, Zone I, is defined - "All localities South and East of the Inland Waterway from the South Carolina line to Fort Macon (Beaufort Inlet), thence South and East of Core, Pamlico, Roanoke and Currituck Sounds to the Virginia line, being those portions of land generally known as the Outer Banks."

This Plan is to be available only for those cases where acceptance of the individual risk is questioned. It is not designed to be used as a substitute for or an instrument of the high hazard insurance market presently available.

This Plan is designed to correct a specific problem and when, in the opinion of the Commissioner of Insurance, the problem is solved this Plan will be terminated.

THE PLAN

1. No building eligible under this Plan will be denied insurance unless there has first been a physical inspection of the premises in accordance with the procedure provided herein.
2. If such inspection discloses that the property is not insurable because of physical hazards, the owner will be advised by the Company or its representative of the specific improvements or repairs which can be made to meet reasonable underwriting standards.
3. Physical inspections will be made available to Insurers by the inspection staff of the North Carolina Fire Insurance Rating Bureau. Inspection expense and other expenses relating to this Plan will be apportioned among all Insurers participating in the Plan.

4. Rejections can only be for conditions or reasons shown in the Action Report.
5. If the main building meets underwriting standards but outbuildings on the premises do not, coverage may be written with the outbuildings excluded.

APPLICATION AND INSPECTION PROCEDURE

1. An application for inspection may be made through a Company or its Agent.
2. The request must be made in writing to the North Carolina Fire Insurance Rating Bureau on its special application form with a copy to the designated Company or Companies and to the applicant.
3. The property owner or his authorized representative must be present and must accompany the inspector during the inspection and shall sign the prescribed release form contained in the application for inspection before the inspection is made.
4. A report is made for each building inspected. This report covers pertinent structural and occupancy features as well as the general condition of the building and surrounding structures. A representative

photograph of each property will be taken during the inspection.

5. The inspection will be made promptly and a report and photograph filed with any designated Company after the Agent or Company has received the application for insurance.
6. The Insurance Company is the sole judge as to acceptance of the risk and in addition to the inspection by the Rating Bureau may make its own inspection of properties.

PROCEDURE AFTER INSPECTION

After the inspection, a copy of the completed inspection form and photograph, indicating the pertinent features of building, construction, maintenance, occupancy and surrounding property, will be sent to the designated Company.

The Company may:

1. Agree to write the coverage (or a portion thereof) and establish the effective date thereof.
2. Agree to write the coverage only if requested improvements are made and confirmed by reinspection.

3. Decline to write the coverage.

In all cases, the company must complete the Action Report promptly and, through its agent or authorized representative, notify the owner or his designated representative that:

1. The risk (or a portion thereof) has been accepted, or
2. The risk will be accepted if the improvements noted in the Action Report are made by the insured and confirmed by reinspection, or
3. The risk has been declined for the reasons stated in the Action Report.

ACTION REPORTS AND BUREAU PROCEDURE

1. A copy of each Action Report showing the disposition made of the application will be furnished by the Company in duplicate to the North Carolina Fire Insurance Rating Bureau which will send a copy to the Commissioner of Insurance.
2. The Action Reports shall be retained on file by the Bureau and shall be subject to examination by the Commissioner of Insurance.

3. The Bureau shall submit to the Commissioner of Insurance quarterly reports on January 1, April 1, July 1 and October 1 of each year, setting forth by individual company the number of risks under the Plan which have been inspected, the number of risks accepted, the number of risks conditionally approved and reinspections made, and the number of risks declined.

IMPORTANT

Inspection(s) made under this Plan and any report of the inspection(s) are for property insurance underwriting purposes only. Regardless of whether a policy issues, neither the insurer, the North Carolina Fire Insurance Rating Bureau, the agent, inspector nor any company represented thereby, will be liable for any injury or damage claimed to arise from the inspection(s), the inspection report(s) of the physical conditions of the premises, or from compliance or noncompliance by the property owner or others with the recommendations, if any, contained in this report.

Appendix B

NORTH CAROLINA

BASIC PROPERTY INSURANCE INSPECTION AND PLACEMENT PROGRAM

The North Carolina Basic Property Insurance Inspection and Placement Program has been formulated by the insurance industry for the purpose of making basic property insurance available to applicants for insurance who have been unable to secure such insurance in the normal insurance market.

Section I - Purpose of Program

The purposes of the Program are:

(1) to make Basic Property Insurance available to qualified applicants, subject to the conditions hereinafter stated.

(2) to enable insurers to become eligible for Federal reinsurance under the provisions of Title XI of the Housing and Urban Development Act of 1968, which adds a new title to the National Housing Act: Title XII - National Insurance Development Program.

(3) to encourage the improvement of properties located in urban areas of North Carolina and to further orderly community development.

(4) to make public the purposes and procedures of this Program.

Section II - Effective Date

The Program shall become effective on October 29, 1968, and shall conform with the applicable provisions of the Federal Urban Property Protection and Reinsurance Act of 1968 and

any rules and regulations issued by the Secretary of Housing and Urban Development pursuant thereto.

Section III - Definitions

(1) "Insurer" means any insurance company or other organization licensed to write and engaged in writing property insurance business, including the property insurance components of multi-peril policies, on a direct basis, in this state, who is a member of the North Carolina Joint Reinsurance Association.

(2) "Servicing Insurer" means an Insurer who enters into an agreement with the Association to issue and service policies on risks referred to it by the Association.

(3) "Basic Property Insurance" means the coverage against direct loss to real and tangible personal property at a fixed location that is provided in the Standard Fire Policy and Extended Coverage Endorsement (including builders' risk coverage) and such vandalism and malicious mischief insurance and such other classes of insurance as may be added to the Program with respect to said property by amendment as hereinafter provided. Basic Property Insurance does not include automobile, farm, or manufacturing risks.

(4) "The North Carolina Joint Reinsurance Association" (hereinafter referred to as the Association) means the organization formed by Insurers to administer the Program herein set forth.

(5) "Inspection Bureau" means the North Carolina Fire Insurance Rating Bureau or other organization designated by the Association with the approval of the Commissioner to make

inspections as required under this Program and to perform such other duties as may be authorized by the Association.

(6) "Urban Area" includes such municipalities or other political subdivisions as may be designated by the Association or by the Commissioner in conformity with such rules and regulations as may be promulgated by the Secretary of Housing and Urban Development of the United States. Towns which have already been designated by the Secretary of Housing and Urban Development as eligible are: Asheville, Charlotte, Durham, Elizabeth City, Fayetteville, Gastonia, Goldsboro, Greensboro, Greenville, Hendersonville, Hickory, High Point, Kings Mountain, Lumberton, Laurinburg, Monroe, Morganton, Mt. Airy, New Bern, Raleigh, Rockingham, Salisbury, Sanford, Smithfield, Tarboro, Washington, Wilmington, Wilson, Winston-Salem.

(7) "Premiums Written" means gross direct premiums (excluding that portion of premium on risks ceded to the Joint Reinsurance Association) charged during the most recent calendar year for which data is available, as determined by the Association, with respect to property in this state on all policies of Basic Property Insurance and the Basic Property Insurance premium components of all multi-peril policies, as computed by the Association less return premiums, dividends paid or credited to policyholders, or the unused or unabsorbed portions of premium deposits.

(8) "Commissioner" means the Commissioner of Insurance of the State of North Carolina.

Section IV - Fair Plan - Inspections and Reports

(1) Any person having an insurable interest in real or tangible personal property at a fixed location in an Urban Area shall be entitled upon application, in person or by authorized representative, to the Association to an inspection of the property by the Inspection Bureau.

(2) The manner and scope of the inspections shall be prescribed by the Association with the approval of the Commissioner.

(3) An inspection report shall be made for each property inspected. The report shall cover pertinent structural and occupancy features as well as the general condition of the building and surrounding structures. A representative photograph of the property may be taken during the inspection.

(4) After the inspection, a copy of the completed inspection report, and any photograph, indicating the pertinent features of building, construction, maintenance, occupancy and surrounding property shall be sent within fifteen days to the Association for distribution to the Servicing Insurer designated by the Association. Included with the report shall be a rate make-up statement, including any condition charges or surcharges imposed in conformity with the Program or under any substandard rating plan approved by the Commissioner. A copy of the inspection report shall be made available to the applicant or his agent upon request.

Section V - Fair Plan Business - Distribution and Placement

(1) The Association, upon receipt of an application for coverage and the inspection report from the Inspection Bureau shall refer the risk to a Servicing Insurer in the manner hereinafter provided.

(2) Any Insurer who writes 1% or more of Basic Property Insurance in the state and who has subscribed for reinsurance offered under the Urban Property Protection and Reinsurance Act of 1968 shall be eligible, if it so elects, to act as a Servicing Insurer and have risks referred to it by the Association. Any other Insurer writing Basic Property Insurance in the state who has subscribed for reinsurance offered under the Urban Property Protection and Reinsurance Act of 1968 may act as a Servicing Insurer and likewise have risks referred to it by the Association, subject to the approval of the Governing Committee of the Association.

(3) Limits of coverage shall be provided for in rules adopted by the Governing Committee subject to approval of the Commissioner. Such limits shall not exceed \$1.5 million aggregate liability per risk as determined by the Committee on real and tangible personal property in conjunction with other underwriting devices to obtain full insurable value on any individual property.

Section VI - Procedure After Inspection and Submission

(1) Any Servicing Insurer to which a risk is referred by the Association shall, within five business days after receipt of the inspection report and application, complete an action report and return the same to the Association advising that:

- (a) the risk is accepted, or
- (b) the risk will be accepted, if the improvements noted in the action report are made by the applicant and confirmed by reinspection, or
- (c) the risk is not accepted for the reasons stated in the action report.

(2) If the risk is accepted by the Servicing Insurer or the Association, such Insurer shall deliver the policy or binder to the applicant, or his designated representative, upon payment of the premium. The premium, less the servicing charges, shall be remitted to the Association to which such risk shall be ceded, as hereinafter provided.

(3) In the event a risk is declined because it fails to meet reasonable underwriting standards, the Association shall so notify the applicant. Reasonable underwriting standards shall include, but not be limited to, the following:

- (a) physical condition of the property, such as its construction, heating, wiring, evidence of previous fires or general deterioration;
- (b) its present use or housekeeping, such as vacancy, overcrowding, storage of rubbish or flammable materials;
- (c) violation of law, public policy or morals.

A risk shall not be declined for neighborhood or area location or any environmental hazard beyond the control of the property owner.

(4) In the event the risk is conditionally declined because the property does not meet reasonable underwriting

standards but can be improved to meet such standards, the Servicing Insurer shall promptly advise the applicant what improvements noted in the action report should be made to the property. Upon completion of the improvements by the applicant or property owner, the Association, when so notified, will have the property promptly reinspected and furnish the new inspection report to the previously designated Servicing Insurer.

(5) If the inspection of the property reveals that there are one or more substandard conditions, surcharges shall be imposed in conformity with any substandard rating plan approved by the Commissioner.

Section VII - Joint Reinsurance Association

(1) The Joint Reinsurance Association shall be authorized to assume reinsurance and to cede reinsurance on eligible risks written by Servicing Insurers under the Program. The reinsurance so assumed by the Association on behalf of all Insurers shall be one hundred percent (100%) cessions. Servicing Insurers shall cede 100% of each risk accepted.

(2) Each Insurer shall participate in the writings, expenses, profits and losses of the Association in the same proportion as its Premiums Written bear to the aggregate Premiums Written by all Insurers in the Program.

(3) The Governing Committee, acting on behalf of the Association, shall be authorized to make a preliminary assessment upon all Insurers and such further assessments as may be deemed necessary.

Section VIII - Standard Policy Coverage

All policies issued shall be for Basic Property Insurance on standard policy forms and shall be issued for a term of one year.

Section IX - Cancellation

(1) No Servicing Insurer shall cancel a policy or binder issued under this Program except:

- (a) for cause which would have been grounds for non-acceptance of the risk under the Program had such cause been known to the Servicing Insurer at the time of acceptance; or
- (b) for non-payment of premium; or
- (c) for evidence of incendiarism; or
- (d) for a finding by the Servicing Insurer on the basis of satisfactory evidence that changes in the physical condition of the property or other changed conditions make the risk uninsurable.

(2) Notice of cancellation, together with a statement of the reason therefor, shall be sent to the insured and a copy sent to the Association.

(3) Any cancellation notice to the insured shall be accompanied by a statement that the insured has a right of appeal as hereinafter provided.

Section X - Right of Appeal

Any applicant for insurance and any person insured under the Program or any affected insurer may appeal to the Governing Committee within 15 days after any final ruling, action or decision of the Association. Any decision of the Committee may be further appealed to the Commissioner within thirty days. Orders of the Commissioner shall be subject to judicial review.

Section XI - Commission

(1) Commission to the licensed agent or brokers designated by the applicant shall be as determined by the Committee and approved by the Commissioner.

(2) In the event of cancellation of a policy, or if an endorsement is issued which requires premium to be returned to the insured, the producer shall refund ratably to the Insurer commissions on the unearned portion of cancelled liability and on reductions in premiums at the same rate at which such commissions were originally paid.

Section XII - Administration

(1) This Program shall be administered by a Governing Committee (hereinafter referred to as the Committee) of the Joint Reinsurance Association, subject to the supervision of the Commissioner.

(2) The Governing Committee shall consist of eleven Insurers, two of which shall be domestic Insurers, elected annually by cumulative voting by the Insurers of the Association, whose votes in such election shall be weighted in accordance with the proportion that each Insurer's Premiums Written in the state during the most recent calendar year for which data is available

bear to the aggregate Premiums Written by all Insurers in the Program. The first Governing Committee may be elected at a meeting called by the Commissioner or by mail ballot of the Insurers. Voting may be in person or by proxy. Nominations for election to such Governing Committee shall close ten days prior to the election. Pending the election of the first Governing Committee, the Commissioner may appoint eleven Insurers to serve temporarily on the Governing Committee. Not more than one Insurer in a group under the same management or ownership shall serve on the Committee at the same time.

Section XIII - Annual and Special Meetings

(1) Meetings - the annual meeting of the Insurers for the election of the Committee and such other business as may be necessary shall be held in the State of North Carolina during the month of _____ (to be determined by the Committee) of each year. At any regular or special meeting at which the vote of the Insurers is or may be required on any proposal, voting may be in person or by written proxy. Voting at regular or special meetings of Insurers, or any vote of the Insurers which may be taken by mail, shall be cast and counted on a weighted basis in the same proportion as each Insurer's Premiums Written bear to the aggregate Premiums Written by all Insurers in the Program. A proposal shall become effective when approved by the majority of the votes cast on such weighted basis.

(2) As soon as practicable after election to membership on the Committee, and thereafter from time to time as it may elect, an Insurer shall designate a qualified representative and

an alternate of such representative to serve for it and shall immediately notify in writing the Manager of the Association of such designation.

(3) Officers - The Committee shall elect a Chairman, Vice Chairman, Secretary, Treasurer, and Manager.

(a) The Chairman shall preside over all meetings of this Committee and at all meetings of the Insurers which are Members of the North Carolina Joint Reinsurance Association. He shall discharge such other duties as may be incidental to his office or as shall be required of him by these rules or by the Committees.

(b) The Vice Chairman shall preside at any meeting of the Committee in the absence of the Chairman. In the event of death, incapacity, or disability of the Chairman, the Vice Chairman shall perform the duties of the Chairman until such office has been filled by the Committee.

(c) The Secretary shall issue all notices of meetings, record minutes of all meetings, keep the records of the Committee, and discharge such other duties as may be incidental to his office or as shall be required of him by these rules or by the Committee.

(d) The Treasurer shall discharge such duties as may be incidental to his office or as shall be

required of him by these rules or by the Committee.

- (e) The Manager shall discharge such duties as may be incidental to his office or as shall be required of him by these rules or by the Committee.

(4) Special Meetings - Special meetings of the Committee or of the Insurers may be held upon the call of the Chairman or in the event of his resignation, death, or incapacity, upon the call of the Vice Chairman. Any six members of the Committee, acting by their designated representatives, may request the Chairman to call a meeting of the Committee or of the Insurers at such time and place and for such purposes as may be set out in writing in such request. Should the Chairman decline to call such meetings, the same may be called by the six members making the request. Such special meetings may be held at the principal office of the Association or at such other place within or without the State of North Carolina as may be designated in the call.

(5) Notices of Meetings - Notices of all meetings shall be given by the Secretary to the members of the Committee and in the case of meetings of the Insurers to the Insurers, and shall state the time and place and the principal purposes thereof, except that no notice of the annual meeting shall be given to newly-elected Insurers in order to legally constitute the meeting, provided a majority of the designated representatives of the Insurers shall be present at such meeting. Such notices may be given by telegram or by mail, directed to the attention of the

designated representatives of the Insurers and shall be sent or mailed at least ten days in advance of the meeting. Any Insurer or the designated representative of any Insurer may waive notice of any meeting, and the presence of such representative at any meeting shall constitute a waiver of notice as to such Insurer.

(6) Advance Agenda - The Secretary, after consultation with the Chairman, shall prepare in advance of each meeting of the Committee and each meeting of the Insurers an agenda which, with such supporting data and information as may be conveniently assembled, shall be forwarded to the members of the Committee or their designated representatives or to the Insurers, as the case may be, in advance of any such meeting.

(7) Committees - Subject to the Articles of Agreement, the Chairman of the Committee may appoint or the Committee may elect such standing committees or such temporary or special committees as may be deemed necessary for the transaction of its business.

(8) Ex-Officio Members - The Chairman of the Committee shall be an ex-officio member of all standing or special committees, with right to vote.

(9) Mail Ballot by Board - Voting by mail is permitted by the Committee and any matter thus submitted shall be carried provided it receives an affirmative vote from a majority of the members of the Committee and provided there are no negative votes received.

(10) Any amendment of the Program shall be made by the Insurers in conformity with Subsection (1) of this Section and shall be subject to approval by the Commissioner.

Section XIV - Duties of the Committee

(1) The Committee shall meet as often as may be required to perform the general duties of the administration of the Program or on the call of the Commissioner. Six Insurers of the Committee shall constitute a quorum.

(2) The Committee shall be empowered to contract with Servicing Insurers and provide reimbursement for all costs and expenses incurred by such Servicing Insurers; to appoint or otherwise contract for the services of a Manager; to budget expenses; levy assessments including preliminary assessments; disburse funds and perform all other duties provided herein or necessary or incidental to the administration of the Program. The adoption of or substantive changes in pension plans or employee benefit programs shall be subject to approval of Insurers. Assessments upon each Insurer shall be levied on the basis of its Premiums Written.

(3) Annually the Manager shall prepare an operating budget which shall be subject to approval of the Committee. Such budget shall be furnished to the Insurers after approval. Any contemplated expenditure in excess of or not included in the annual budget shall require prior approval by the Committee.

(4) The Committee shall furnish to all Insurers and to the Commissioner a written report of operations annually in such form and detail as the Committee may determine.

Section XV - Public Education

All Insurers agree to undertake a continuing public education program, in cooperation with producers and others, to assure that the Basic Property Insurance Inspection and Placement Program receives adequate public attention.

Section XVI - Termination of the Program

This Program shall terminate on December 31, 1969, or at such earlier date at which the Program provided hereunder shall no longer qualify Insurers for riot or civil disorder reinsurance under the Urban Property Protection and Reinsurance Act. Notwithstanding the foregoing, any obligations incurred by the Association or Insurers thereof shall not be impaired by the expiration of the Program and such Association shall be continued for the purpose of performing such obligations.

MEMBERSHIP AGREEMENT

The undersigned Insurer hereby ratified and becomes a member of the North Carolina Basic Property Insurance Inspection and Placement Program and the North Carolina Joint Reinsurance Association and assumes all of the rights and duties in connection therewith.

As respects risks eligible for the Program, the Insurer agrees that with respect to cancellation or non-renewals initiated by the Insurer to be effective after October 29, 1968, it will give the policyholder (except in cases of non-payment of premium or evidences of incendiarism), 15 days to avail himself of the Program, and the Insurer shall, in writing explain to the policyholder the procedures for making application under the Program.

Insurer

By: _____

Chief Executive Officer

DATED:

NORTH CAROLINA GENERAL ASSEMBLY 1969 SESSION

SENATE BILL 26

AG-1129 P

Sponsors: Senators Ellis and Burney.

Referred to: Committee on Insurance

January 28

1 A BILL TO BE ENTITLED

2 AN ACT TO ESTABLISH THE NORTH CAROLINA UNDERWRITING ASSOCIATION
3 SO AS TO PROVIDE A METHOD WHEREBY ADEQUATE FIRE AND EXTENDED
4 COVERAGE INSURANCE MAY BE OBTAINED IN THE BEACH AND COASTAL
5 AREAS OF NORTH CAROLINA.

6 The General Assembly of North Carolina do enact:

7 Section 1. Article 18A of Chapter 58 of the General
8 Statutes of North Carolina is hereby repealed in its entirety and
9 in lieu thereof the following is substituted:

10 "Sec. 58-173.1. Declarations and purpose of the
11 Act. - It is hereby declared by the General Assembly of
12 North Carolina that an adequate market for fire and
13 extended coverage insurance is necessary to the
14 economic welfare of the beach and coastal areas of the
15 State of North Carolina and that without such insurance
16 the orderly growth and development of the beach and

1 severely impeded; that furthermore, adequate insurance
2 upon property in the beach and coastal areas is
3 necessary to enable home owners and commercial owners
4 to obtain financing for the purchase and improvement of
5 their property; and that while the need for such
6 insurance is increasing the market for such insurance
7 is not adequate and is likely to become less adequate
8 in the future; and that the present plans to provide
9 adequate insurance on property in the beach area, while
10 deserving praise, have not been sufficient to meet the
11 needs of this area. It is further declared that the
12 State has an obligation to provide an equitable method
13 whereby every licensed insurer writing fire and
14 extended coverage in North Carolina is required to meet
15 its public responsibility instead of shifting the
16 burden to a few willing and public spirited insurers.
17 It is the purpose of this Act to accept this obligation
18 and to provide a mandatory program to assure an
19 adequate market for fire and extended coverage
20 insurance in the coastal and beach areas of North
21 Carolina."

22 "Sec. 58-173.2. Definition of terms. - In this
23 article, unless the context otherwise requires,

24 "(1) 'Essential Property Insurance' means insurance
25 against direct loss to property as defined and limited
26 in the standard statutory fire policy and extended
27 coverage endorsement thereon, as approved by the
28 Commissioner;

1 "(2) 'Basic Property Insurance' means insurance
2 against loss to property as defined and limited in the
3 standard fire policy and extended coverage endorsement
4 thereon;

5 "(3) 'Association' means the North Carolina
6 Insurance Underwriting Association established pursuant
7 to the provisions of this Act;

8 "(4) 'Plan of Operation' means the plan of operation
9 of the Association approved or promulgated by the
10 Commissioner of Insurance, pursuant to the provisions
11 of this Act;

12 "(5) 'Insurable Property' means real property at
13 fixed locations in beach areas of the State as that
14 term is hereinafter defined or the tangible personal
15 property located thereon, but shall not include
16 insurance on motor vehicles, farm and manufacturing
17 risks, which property is determined by the Association,
18 after inspection and pursuant to the criteria specified
19 in the plan of operation, to be in an insurable
20 condition: Provided, however, any structure or
21 building built in compliance with the North Carolina
22 Building Code, including the design-wind requirements,
23 which is not otherwise rendered uninsurable by reason
24 of use or occupancy, shall be an insurable risk within
25 the meaning of this Act, but neighborhood, area,
26 location, environmental hazards beyond the control of
27 the applicant or owner of the property shall not be
28 considered in determining insurable condition.

1 Provided further, that any structure commenced on or
2 after January 1, 1970, not built in compliance with the
3 North Carolina Building Code, including the design-wind
4 requirements therein, shall not be an insurable risk;

5 "(6) 'Commissioner' means the Commissioner of
6 Insurance of the State of North Carolina;

7 "(7) 'Beach Area' means all of that area of the
8 State of North Carolina South and East of the inland
9 waterway from the South Carolina line to Fort Macon
10 (Beaufort Inlet); thence South and East of Core,
11 Pamlico, Roanoke and Currituck Sounds to the Virginia
12 line, being those portions of land generally known as
13 the Outer Banks. Beach Area shall also include that
14 area one mile on either side of the bodies of water
15 mentioned herein.

16 "(8) 'Net Direct Premiums' means gross direct
17 premiums (excluding reinsurance assumed and ceded)
18 written on property in this State for fire and extended
19 coverage insurance, including the fire and extended
20 coverage components of home owners and commercial
21 multiple peril package policies as computed by the
22 Commissioner, less return premiums upon cancelled
23 contracts, dividends paid or credited to policyholders
24 or the unused or unabsorbed portion of premium
25 deposits, and further excluding premiums on farm
26 properties and manufacturing risks."

27 "Sec. 58-173.3. North Carolina Insurance
28 Underwriting Association created. - There is hereby
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1 created the North Carolina Insurance Underwriting
2 Association, consisting of all insurers authorized to
3 write and engage in writing within this State, on a
4 direct basis, property insurance, except town and
5 county mutual insurance associations as authorized by
6 General Statute 58-77(5)d. Every such insurer shall be
7 a member of the Association and shall remain a member
8 of the Association so long as the Association is in
9 existence as a condition of its authority to continue
10 to transact the business of insurance in this State."

11 "Sec. 58-173.4. Powers and duties of the
12 Association. - The Association shall, pursuant to the
13 provisions of this Act and the plan of operation, and
14 with respect to essential property insurance on
15 insurable property, have the power on behalf of its
16 members:

17 (a) to cause to be issued policies of insurance to
18 applicants;

19 (b) to assume reinsurance from its members;

20 (c) to cede insurance from its members."

21 "Sec. 58-173.5. Governing board of Association;
22 election of directors; weighting of votes. - The
23 Association shall be governed by a board of eleven (11)
24 directors, elected annually by the members of the
25 Association, whose vote in such election shall be
26 weighted in accordance with each member's participation
27 in the Association pursuant to General Statute 58-
28 173.6. The first board shall be elected at a meeting
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1 of the members, or their authorized representatives,
2 which shall be held within thirty (30) days after the
3 effective date of this Act, at a time and place
4 designated by the Commissioner."

5 Sec. 58-173.6. Members of Association to
6 participate in its writings, expenses, profits and
7 losses in proportion to net direct premium of such
8 member. - All members of the Association shall
9 participate in its writings, expenses, profits and
10 losses in the proportion that the net direct premium of
11 such member written in this State during the preceding
12 calendar year bears to the aggregate net direct
13 premiums written in this State by all members of the
14 Association, as certified to the Association by the
15 Commissioner after review of annual statements, other
16 reports and any other statistics the Commissioner shall
17 deem necessary to provide the information herein
18 required and which the Commissioner is hereby
19 authorized and empowered to obtain from any member of
20 the Association. Each member's participation in the
21 Association shall be determined annually in the same
22 manner as the initial determination. Any insurer
23 authorized to write and engage in writing any
24 insurance, the writing of which requires such insurer
25 to be a member of the Association, pursuant to the
26 provisions of General Statute 58-173.3 of this Act, who
27 is authorized and engaged in writing such insurance
28 after the effective date of this Act, shall become a
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1 member of the Association on the January 1 immediately
2 following such authorization and the determination of
3 such insurer's participation in the Association shall
4 be made as of the date of such membership in the same
5 manner as for all other members of the Association."

6 "Sec. 58-173.7. Directors to submit plan of
7 operation to Commissioner for review and approval. -
8 Within ninety (90) days after the effective date of
9 this Act, the directors of the Association shall submit
10 to the Commissioner for his review and approval, a
11 proposed plan of operation. Such proposed plan shall
12 provide for the efficient, economical, fair and non-
13 discriminatory administration of the Association and
14 for the prompt and efficient provision of essential
15 property insurance in the beach area of North Carolina
16 so as to promote orderly community development in those
17 areas and to provide means for the adequate maintenance
18 and improvement of the property in such areas. Such
19 proposed plan may include a preliminary assessment of
20 all members for initial expenses necessary to the
21 commencement of operation; the establishment of
22 necessary facilities; management of the Association;
23 plan for the assessment of members to defray losses and
24 expenses; underwriting standards; procedures for the
25 acceptance and cessation of reinsurance; procedures for
26 determining the amounts of insurance to be provided to
27 specific risks; time limits and procedures for
28 processing applications for insurance and for such
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1 other provisions as may be deemed necessary by the
2 Commissioner to carry out the purposes of this Act.

3 "The proposed plan shall be reviewed by the
4 Commissioner and approved by him if he finds that such
5 plan fulfills the purposes provided by General Statute
6 58-173.1 of this Act. In the review of the proposed
7 plan the Commissioner may, in his discretion, consult
8 with the directors of the Association and may seek any
9 further information which he deems necessary to his
10 decision. If the Commissioner approves the proposed
11 plan, he shall certify such approval to the directors
12 and the plan shall become effective ten (10) days after
13 such certification. If the Commissioner disapproves
14 all or any part of the proposed plan of operation he
15 shall return the same to the directors with his written
16 statement for the reasons for disapproval and any
17 recommendations he may wish to make. The directors may
18 alter the plan in accordance with the Commissioner's
19 recommendation or may within thirty (30) days from the
20 date of disapproval return a new plan to the
21 Commissioner. Should the directors fail to submit a
22 proposed plan of operation within ninety (90) days of
23 the effective date of this Act, or a new plan which is
24 acceptable to the Commissioner, or accept the
25 recommendations of the Commissioner within thirty (30)
26 days after his disapproval of the plan, the
27 Commissioner shall promulgate and place into effect a
28 plan of operation certifying the same to the directors
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1 of the Association. Any such plan promulgated by the
2 Commissioner shall take effect ten (10) days after
3 certification to the directors: Provided, however,
4 that until a plan of operation is in effect, pursuant
5 to the provisions of this Act, any existing temporary
6 placement facility may be continued in effect on a
7 mandatory basis on such terms as the Commissioner may
8 determine.

9 "The directors of the Association may, subject to
10 the approval of the Commissioner, amend the plan of
11 operation at any time. The Commissioner may review the
12 plan of operation at any time he deems expedient or
13 prudent, but not less than once in each calendar year.
14 After review of such plan the Commissioner may amend
15 the plan after consultation with the directors and upon
16 certification to the directors of such amendment."

17 "Sec. 58-173.8. Persons eligible to apply to
18 Association for coverage; contents of application. -

19 (a) Any person having an insurable interest in
20 insurable property, may, on or after the effective date
21 of the plan of operation, be entitled to apply to the
22 Association for such coverage and for an inspection of
23 the property. Such application may be made on behalf
24 of the applicant by a broker or agent authorized by
25 him. Every such application shall be submitted on
26 forms prescribed by the Association after consultation
27 with the Commissioner, which application shall contain
28 statement as to whether or not there is any unpaid
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1 premiums due from the applicant for fire insurance on
2 the property.

3 "The term 'insurable interest' as used in this
4 subsection shall be deemed to include any lawful and
5 substantial economic interest in the safety or
6 preservation of property from loss, destruction or
7 pecuniary damage.

8 "(b) If the Association determines that the
9 property is insurable and that there is no unpaid
10 premium due from the applicant for prior insurance on
11 the property, the Association upon receipt of the
12 premium, or such portion thereof, as is prescribed in
13 the plan of operation, shall cause to be issued a
14 policy of essential property insurance for a term of
15 one (1) year. Any policy issued pursuant to the
16 provisions of this section shall be renewed annually,
17 upon application therefor, so long as the information
18 contained in the original application remains true.

19 "(c) If the Association, for any reason, denies an
20 application and refuses to cause to be issued an
21 insurance policy to any applicant or takes no action on
22 an application within the time prescribed in the plan
23 of operation, such applicant may appeal to the
24 Commissioner and the Commissicner, or a member of his
25 staff designated by him, after reviewing the facts, may
26 direct the Association to issue or cause to be issued
27 an insurance policy to the applicant. In carrying out
28 his duties pursuant to this section, the Commissioner

1 may request, and the Association shall provide any
2 information the Commissioner deems necessary to a
3 determination concerning the reason for the denial or
4 delay of the application."

5 "Sec. 58-173.9. Association members may cede
6 insurance to the Association. - Any member of the
7 Association may cede to the Association essential
8 property insurance written on insurable property, to
9 the extent, if any, and on the terms and conditions set
10 forth in the plan of operation."

11 "Sec. 58-173.10. Rates, rating plans and rate rules
12 applicable. - The rates, rating plans and rating rules
13 applicable to the insurance written by the Association
14 shall be in accord with the manual rates in current
15 usage throughout the State of North Carolina."

16 "Sec. 58-173.11. Appeal from acts of the
17 Association to Insurance Commissioner; appeal to the
18 Superior Court from the Commissioner. - Any person
19 insured pursuant to this Act, or his representative, or
20 any affected insurer, who may be aggrieved by an act,
21 ruling or decision of the Association, may, within
22 thirty (30) days after such ruling appeal to the
23 Commissioner. Any hearings held by the Insurance
24 Commissioner pursuant to such an appeal shall be in
25 accordance with the procedure set forth in General
26 Statute 58-9.2: Provided, however, the Insurance
27 Commissioner is authorized to appoint a member of his
28 staff as Deputy Commissioner for the purpose of hearing
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1 such appeals and a ruling based upon such hearing shall
2 have the same effect as if heard by the Commissioner.
3 All persons or insureds aggrieved by any order or
4 decision of the Insurance Commissioner may appeal as is
5 provided by the provisions of General Statute 58-9.3."

6 "Sec. 58-173.12. Reports of inspection made
7 available. - All reports of inspection performed by or
8 on behalf of the Association shall be made available to
9 the members of the Association, applicants and the
10 Commissioner."

11 "Sec. 58-173.13. Association and Commissioner
12 immune from liability. - There shall be no liability on
13 the part of and no cause of action of any nature shall
14 arise against the Insurance Commissioner or any of his
15 staff, the Association or its agents or employees, or
16 against any participating insurer, for any statements
17 made in good faith by them in any reports or
18 communications concerning risks insured or to be
19 insured by the Association, or at any administrative
20 hearings conducted in connection therewith under the
21 provisions of this Act."

22 "Sec. 58-173.14. Association to file annual report
23 with Commissioner. - The Association shall file in the
24 Office of the Commissioner on an annual basis on or
25 before July 1 a statement which shall summarize the
26 transactions, conditions, operations and affairs of the
27 Association during the preceding year. Such statement
28 shall contain such matters and information as are
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1 prescribed by the Commissioner and shall be in such
2 form as is approved by him. The Commissioner may at
3 any time require the Association to furnish to him any
4 additional information with respect to its transactions
5 or any other matter which the Commissioner deems to be
6 material to assist him in evaluating the operation and
7 experience of the Association."

8 "Sec. 58-173.15. Commissioner may examine affairs
9 of the Association. - The Commissioner may from time to
10 time make an examination into the affairs of the
11 Association when he deems it to be prudent and in
12 undertaking such examination he may hold a public
13 hearing pursuant to the provisions of General Statute
14 58-9.2. The expenses of such examination shall be
15 borne and paid by the Association."

16 "Sec. 58-173.16. Commissioner authorized to
17 promulgate reasonable rules and regulations. - The
18 Commissioner of Insurance shall have authority to make
19 reasonable rules and regulations, not inconsistent with
20 law, to enforce, carry out and make effective the
21 provisions of this article. The Commisssioner shall
22 not be liable for any act or omission in connection
23 with the administration of the duties imposed upon him
24 by the provisions of this article."

25 Sec. 2. If any provisions of this Act or the
26 application thereof to any person or circumstance is held
27 invalid, such invalidity shall not affect other provisions or
28 applications of the Act which can be

1 given effect without the invalid provision or application, and to
2 this end the provisions of this Act are declared to be severable.

3 Sec. 3. This Act shall become effective upon
4 ratification.

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